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COMPILATION OF  
FEDERAL ORDER NO. 99  
REGULATING THE HANDLING OF MILK  
IN THE  
PADUCAH, KENTUCKY, MARKETING AREA  
EFFECTIVE JULY 1, 1971  
AND  
OTHER SELECTED ITEMS //

MARKET ADMINISTRATOR  
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UNITED STATES DEPARTMENT OF AGRICULTURE  
CONSUMER AND MARKETING SERVICE  
DAIRY DIVISION

FEDERAL ORDER NO. 99

ORDER REGULATING THE HANDLING OF MILK  
IN THE PADUCAH, KENTUCKY, MARKETING AREA

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## General Provisions and Definitions

### § 1099.1 GENERAL PROVISIONS.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

### § 1099.5 PADUCAH, KENTUCKY, MARKETING AREA.

The "Paducah, Kentucky, marketing area," hereinafter called the "marketing area," means all the territory within the counties listed below (except that portion of any of these counties contained in the Fort Campbell military reservation):

#### Kentucky Counties

Ballard.	Hickman.
Caldwell.	Livingston.
Calloway.	Lyon.
Carlisle.	Marshall.
Christian.	McCracken.
Fulton.	Todd.
Graves.	Trigg.

#### Missouri Counties

Mississippi.	Pemiscot.
New Madrid.	Scott.

### § 1099.6 DISTRIBUTING PLANT.

"Distributing plant" means a plant in which milk is processed and packaged and from which Class I milk is disposed of during the month as route disposition in the marketing area.

### § 1099.7 SUPPLY PLANT.

"Supply plant" means a plant (except a distributing plant) which is qualified as a pool plant pursuant to the proviso in § 1099.8(b) or a plant from which milk or skim milk which may be distributed in the marketing area under a Grade A label is supplied during the month to a plant qualified pursuant to § 1099.8(a).

### § 1099.8 POOL PLANT.

"Pool plant" means:

- (a) A distributing plant from which 45 percent or more of its receipts of milk from dairy farmers producing milk under a Grade A dairy farm permit or rating issued by a duly constituted health authority (including milk of such dairy farmers diverted by the plant operator), from cooperative associations in their capacity as handlers pursuant to § 1099.10(e) and fluid milk products, except filled milk, from other plants is disposed of as Class I milk, except filled milk, on route disposition during the month and from which a



daily average of 3,000 pounds or more per day, or 10 percent or more of such receipts, whichever is less, is disposed of as fluid milk products, except filled milk, on route disposition in the marketing area: Provided, That a plant which qualifies as a pool plant by complying with the foregoing requirements during any month shall be a pool plant during the following month; or

- (b) A distributing plant or supply plant from which the volume of milk, skim milk and cream shipped to pool plants qualified pursuant to paragraph (a) of this section, or disposed of as Class I milk, except filled milk, on route distribution is equal to not less than 50 percent of the receipts of milk from dairy farmers producing milk under a Grade A dairy farm permit or rating issued by a duly constituted health authority (including milk of such dairy farmers diverted by the plant operator), from cooperative associations in their capacity as handlers pursuant to § 1099.10(e) and fluid milk products, except filled milk, received from other plants: Provided, That if a supply plant ships to pool plants qualified pursuant to paragraph (a) of this section, milk, skim milk and cream equal to at least 75 percent of its receipts of milk from such dairy farmers and cooperative associations in their capacity as handlers pursuant to § 1099.10(e) in October and November and 35 percent of such milk in three additional months during the period from August through January, such plant shall, upon written application to the market administrator on or before the end of such period, be designated as a pool plant until the end of any month during the succeeding August through January period in which the milk of such plant is disposed of in such a way that it becomes impossible for the plant to reestablish its qualification under the term of this proviso: And provided further, That in the case of a supply plant operated by a cooperative association which supplies to other pool plants at least two-thirds of the producer milk of its producer members (including both the milk delivered directly from the farms of member producers and that delivered from the plant of the association) delivered to all plants during the current month or during the immediately preceding 12-month period, the milk which such association causes to be delivered to the pool plants of other handlers in its capacity as a handler pursuant to § 1099.10(e), shall be considered as having been received first at the plant of such cooperative association for the purpose of qualifying such plant as a pool plant pursuant to this paragraph.

#### § 1099.9 NONPOOL PLANT.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

- (a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.



- (b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.
- (c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products in consumer-type packages or dispenser units are distributed on route disposition in the marketing area during the month.
- (d) "Unregulated supply plant" means a nonpool plant (other than a producer-handler plant or an other order plant) from which fluid milk products are shipped to a pool plant.

§ 1099.10 HANDLER.

"Handler" means:

- (a) Any person in his capacity as the operator of a pool plant;
- (b) Any person who operates a partially regulated distributing plant;
- (c) A producer-handler or any person who operates an other order plant described in § 1099.61;
- (d) A cooperative association qualified pursuant to § 1099.18 with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant; or
- (e) A cooperative association which chooses to report as a handler with respect to milk which is delivered from the farm to a pool plant(s) of another handler in a tank truck owned or operated by, or under contract to, such cooperative association for the account of such cooperative association. The milk so delivered shall be considered to have been received by such cooperative association at a pool plant at the location of the pool plant to which it is delivered.

§ 1099.11 PRODUCER.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk under a Grade A dairy farm permit or rating issued by a duly constituted health authority, which milk is received at a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1099.10(e).

§ 1099.12 PRODUCER-HANDLER.

"Producer-handler" means any person who operates a dairy farm and a distributing plant, from which Class I milk is distributed within the marketing area but which receives no other source milk or milk from other dairy farmers.

§ 1099.13 PRODUCER MILK.

"Producer milk" means all skim milk and butterfat contained in milk produced by a producer which is:

- (a) Received during the month at a pool plant from producers or from a cooperative association pursuant to § 1099.10(e):  
Provided: That milk received at a pool plant by diversion from a plant at which such milk would otherwise be fully subject to the pricing and pooling under the terms or provisions of another order issued pursuant to the Act shall not be producer milk;
- (b) Received by a cooperative association as a handler pursuant to § 1099.10(e) but which is not delivered to a pool plant of another handler and constitutes shrinkage pursuant to § 1099.41(b)(4) or as Class I shrinkage;
- (c) Diverted by the operator of a pool plant or by a cooperative association as a handler pursuant to § 1099.10(d) to a nonpool plant at which the handling of milk is not subject to pricing and pooling under the terms or provisions of another order issued pursuant to the Act, subject to the following conditions:
  - (1) Not less than 5 days' production of any producer whose milk is diverted is physically received at a pool plant;
  - (2) If diverted by a cooperative association for its account as milk of its members to nonpool plants which does not exceed 25 percent of the milk physically received from member producers of such cooperative association at pool plants during the month in any of the months of April through August and 15 percent in other months, except that if milk of members is diverted by the cooperative association in excess of the specified percentages, no milk diverted by the cooperative association during the month shall be producer milk unless the cooperative association designates the dairy farmers whose milk is not producer milk;
  - (3) If diverted by a handler in his capacity as the operator of a pool plant, as milk of a producer who is not a member of a cooperative association diverting milk pursuant to subparagraph (2) of this paragraph, which does not exceed 25 percent of the aggregate quantity of milk received at such plant from such nonmember producers during the month in any of the months of April through August and 15 percent in other months, except that if milk of nonmember producers is diverted by the handler in excess of the specified percentages, no milk diverted by the handler during the month shall be producer milk unless the handler designates the dairy farmers whose milk is not producer milk; and



- (4) Milk diverted for the account of a handler in his capacity as an operator of a pool plant shall be deemed to have been received at the pool plant from which diverted and milk diverted for the account of a cooperative association shall be deemed to have been received by the cooperative association at a pool plant at a location identical with that of the pool plant from which diverted.

§ 1099.14 OTHER SOURCE MILK.

"Other source milk" means all skim milk and butterfat contained in:

- (a) Receipts during the month in the form of fluid milk products except (1) producer milk, and (2) such products which are received from other pool plants; and
- (b) Products designated as Class II milk pursuant to § 1099.41(b) (1) from any source (including those from a plant's own production), which are reprocessed or converted to another product in the plant during the month.

§ 1099.15 FLUID MILK PRODUCT.

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk and flavored milk drinks (modified or fortified, including dietary products) and reconstituted milk or skim; filled milk; concentrated milk not sterilized in hermetically sealed containers; cream, sweet and sour; and mixtures of cream and milk or skim milk but not including the following: Frozen cream, aerated cream products, cultured sour cream mixtures other than sour cream, eggnog and boiled custard, ice cream, and ice cream and ice milk mixes, and cream or mixtures of cream with milk or skim milk sterilized in hermetically sealed containers. This definition shall not include a product which contains 6 percent or more nonmilk fat (or oil).

§ 1099.16 ROUTE DISPOSITION.

"Route disposition" means a delivery (including disposition from a plant store or from a distribution point and distribution by a vendor or vending machine) of any fluid milk products to a retail or wholesale outlet other than a milk or filled milk plant. A delivery through a distribution point shall be attributed to the plant from which the Class I milk is moved through a distribution point to wholesale or retail outlets.

§ 1099.17 CHICAGO BUTTER PRICE.

"Chicago butter price" means the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the mid-point of any price range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department.

§ 1099.18 COOPERATIVE ASSOCIATION.

"Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

- (a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and
- (b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

§ 1099.19 FILLED MILK.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers or flavoring) resembles milk or any other fluid milk product; and contains less than 6 percent nonmilk fat (or oil).

Market Administrator

§ 1099.22 Additional duties of the market administrator.

In addition to the duties specified in § 1000.3(c) of this chapter, the market administrator shall perform the following duties:

- (h) Upon request, report, on or before the 25th day after the end of each month, to each cooperative association described in § 1099.87(b) the percentage of milk which was caused to be delivered by such association or by its members and which was used in each class by each handler receiving any such milk. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class;
- (k) Publicly announce, by posting in his office and by other means he deems appropriate, on or before:
  - (1) The 5th day of each month, the minimum price for Class I milk, pursuant to § 1099.51(a), and the Class I butterfat differential, pursuant to § 1099.52(a), both for the current month; and the minimum price for Class II milk, pursuant to § 1099.51(b), and the Class II butterfat differentials, pursuant to § 1099.52(b), both for the preceding month; and
  - (2) The 10th day after the end of each month, the uniform price, pursuant to § 1099.71, and the producer butterfat differential, pursuant to § 1099.85;
- (1) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1099.45(a)(8) and the corresponding step of § 1099.45(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers.



Such estimate shall be based upon the most current available data and shall be final for such purpose;

- (m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1099.45 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and
- (n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and as necessary, any changes in such classification arising in the verification of such report.

### Reports

#### § 1099.30 REPORTS OF RECEIPTS AND UTILIZATION.

On or before the 6th day after the end of each month, reports for such month shall be made to the market administrator in the detail and on forms prescribed by the market administrator:

- (a) Each handler other than one specified in § 1099.10(b) shall report the following:
  - (1) The quantities of skim milk and butterfat contained in all receipts at each of his distributing and supply plants of (i) producer milk, showing separately that from cooperative associations pursuant to § 1099.10(e), (ii) in fluid milk products received from pool plants, and (iii) other source milk;
  - (2) The quantities of skim milk and butterfat contained in producer milk diverted to nonpool plants pursuant to § 1099.13, the names of the producers so diverted, and the plant to which diverted;
  - (3) The utilization of all skim milk and butterfat required to be reported pursuant to paragraphs (1) and (2) of this paragraph, including a statement showing the route disposition of Class I milk outside the marketing area and a statement showing separately in-area and outside area route disposition of filled milk;
  - (4) Inventories of Class I milk on hand at the beginning and end of the month;

- (5) The name and address of each producer from whom milk was not received during the previous months and the date on which milk was first received from such producer;
  - (6) The name and address of each producer who discontinues deliveries of milk and the date on which milk was last received from such producer; and
  - (7) Each handler with respect to fluid milk products disposed of for animal feed or dumped shall report to the market administrator such information and at such time as a market administrator may require.
- (b) Each handler specified in § 1099.10(b) shall report as required in paragraph (a) of this section except that receipts of Grade A milk from dairy farmers shall be reported in lieu of producer milk and such report shall include a separate statement showing Class I disposition on routes in the marketing area of each of the following: skim milk and butterfat respectively in fluid milk products and the quantity thereof which is reconstituted skim milk.

#### § 1099.31 PAYROLL REPORTS.

- (a) On or before the 20th day of each month, each handler, operating a pool plant(s), except a producer-handler and each cooperative association which is a handler pursuant to § 1099.10(d) or (e), shall report its producer payroll for the preceding month which shall show for each producer:
- (1) His name and, if not previously reported, post office address and farm location (county) for each producer;
  - (2) The number of days on which milk was received from such producer;
  - (3) The average butterfat content of such milk;
  - (4) The net amount of such handler's payment, the price paid, the amount and nature of any deductions and charges involved; and
  - (5) The amount and nature of any payments paid pursuant to § 1099.84;
- (b) Each handler who receives producer milk for which payment is to be made to a cooperative association pursuant to § 1099.80 (b) shall report to such cooperative association with respect to each such producer as follows:
- (1) On or before the 25th day of the month, the total pounds of milk received during the first 15 days of such month; and



- (2) On or before the 7th day of the following month (i) the pounds of milk received each day and the total for the month together with the butterfat content of such milk, (ii) the amount or rate and nature of any deductions, and (iii) the amount and nature of payments due pursuant to § 1099.84; and
- (c) On or before the 25th day after the end of the month each handler operating a partially regulated distributing plant except one who elects at the time of reporting pursuant to § 1099.30 to make payments pursuant to § 1099.62(b) shall report his payments to dairy farmers qualified to be producers as if such plant were a pool plant showing for each such dairy farmer:

- (1) The daily and total pounds of milk received;
- (2) The average butterfat content thereof; and
- (3) The date and net amount of payment paid such dairy farmer with a statement of the prices, deductions and charges used in computing such payment and the nature of each.

#### § 1099.32 OTHER REPORTS.

Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request and shall permit the market administrator to verify such reports.

#### Classification of Milk

#### § 1099.40 BASIS OF CLASSIFICATION.

All skim milk and butterfat which is required to be reported pursuant to § 1099.30 shall be classified by the market administrator pursuant to the provisions of §§ 1099.41 through 1099.46.

#### § 1099.41 CLASSES OF UTILIZATION.

The classes of utilization shall be as follows:

- (a) Class I milk. Class I milk shall be all skim milk and butterfat:
  - (1) Disposed of in the form of fluid milk products, except those classified pursuant to paragraph (b) (2), (3), and (6) of this section. Fluid milk products which have been fortified by the addition of milk solids shall be Class I only to the extent of the weight of an equal volume of an unmodified fluid milk product of the same nature and butterfat content; and
  - (2) Not specifically accounted for as Class II milk;

(b) Class II milk. Class II milk shall be all skim milk and butterfat:

- (1) Used to produce a product other than a fluid milk product;
- (2) Contained in inventory of fluid milk products on hand at the end of the month;
- (3) Skim milk contained in that portion of fortified fluid milk products not classified as Class I milk pursuant to paragraph (a)(1) of this section;
- (4) Contained in actual shrinkage of skim milk and butterfat, respectively, not to exceed the amounts calculated for each pool plant and for each cooperative association in its capacity as a handler pursuant to § 1099.10(d) and (e):
  - (i) Two percent of receipts of skim milk and butterfat from producers (including receipts by a cooperative association pursuant to § 1099.10(e)) and milk diverted pursuant to § 1099.13; plus
  - (ii) One and one-half percent of fluid milk products received in bulk from other pool plants; plus
  - (iii) One and one-half percent of milk received in bulk from cooperative associations in their capacity as handlers pursuant to § 1099.10(e) except that if the handler operating the pool plant files with the market administrator, prior to the first day of the month, notice that he is purchasing such milk on the basis of farm weight determined by farm bulk tank calibration and butterfat tests determined from farm bulk tank samples, the applicable percentage shall be two percent; plus
  - (iv) One and one-half percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler; plus
  - (v) One and one-half percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; less



- (vi) One and one-half percent of bulk transfers of milk to a pool plant of another handler (in the case of a cooperative association selling milk to a handler on the basis of farm weights determined by farm bulk tank calibration and butterfat test determined from farm bulk tank samples as provided in subdivision (iii) of this subparagraph, the percentage in such milk shall be two percent); less
  - (vii) One and one-half percent of bulk transfers of milk to nonpool plants (in the case of a cooperative association selling milk to a handler on the basis of farm weights determined by farm bulk tank calibration and butterfat test determined from farm bulk tank samples as provided in subdivision (iii) of this subparagraph, the percentage in such milk shall be two percent); less
  - (viii) One and one-half percent of diversion of milk to nonpool plants (in the case of a cooperative association selling milk to a handler receiving milk on the basis of farm weights determined by farm bulk tank calibration and butterfat test determined from farm bulk tank samples as provided in subdivision (iii) of this subparagraph, or a handler receiving milk on the basis of farm weights determined by farm bulk tank calibration and butterfat test determined from farm bulk tank samples, the percentage in such milk shall be two percent);
- (5) In shrinkage of skim milk and butterfat, in other source milk in the form of fluid milk products in bulk except that included in subparagraph (4) of this paragraph: Provided, That such shrinkage shall be assigned pro rata to the amounts used in the computations pursuant to subparagraph (4) of this paragraph and this subparagraph; and
  - (6) Contained in fluid milk products which are dumped, if the market administrator has been notified in advance and afforded the opportunity to verify such dumping or in fluid milk products disposed of and used for livestock feed.

§ 1099.43 TRANSFERS.

Skim milk or butterfat transferred or diverted in the form of a fluid milk product shall be classified:

- (a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject in either event to the following conditions:
- (1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1099.45(a)(8) and (b);
  - (2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1099.45(a)(3) and the corresponding step of § 1099.45(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and
  - (3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1099.45(a)(7) or (8) and the corresponding steps of § 1099.45(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;
- (b) As Class I milk, if transferred to a producer-handler;
- (c) As Class I milk, if transferred or diverted in bulk to a non-pool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:
- (1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1099.30 for the month within which such transaction occurred;
  - (2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and
  - (3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants;



- (i) Any Class I utilization disposed of on route disposition in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;
  - (ii) Any Class I utilization disposed of on route disposition in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;
  - (iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and
  - (iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;
- (d) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:
- (1) If transferred in packaged form classification shall be in the classes to which allocated as a fluid milk product under the other order;
  - (2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

- (3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;
- (4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph (d), classification shall be as Class I, subject to adjustment when such information is available;
- (5) For purposes of this paragraph (d), if the transferee order provides for more than two classes of utilization, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and skim milk and butterfat allocated to other classes shall be classified as Class II; and
- (6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1099.41.

§ 1099.44 COMPUTATION OF SKIM MILK AND BUTTERFAT IN EACH CLASS.

For each month, the market administrator shall correct for mathematical and other obvious errors the reports submitted by each handler and compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk for such handler: Provided, That if any of the water contained in the milk from which a product is made is removed, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such products, plus all the water originally associated with such solids.

§ 1099.45 ALLOCATION OF SKIM MILK AND BUTTERFAT CLASSIFIED.

After making the computations pursuant to § 1099.44, the market administrator shall determine the classification of producer milk at the pool plant(s) of each handler as follows:

(a) Skim milk shall be allocated in the following manner:

- (1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1099.41(b)(4);



- (2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants, except that to be subtracted pursuant to subparagraph (3)(v) of this paragraph, as follows:
- (i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and
  - (ii) From Class I milk, the remainder of such receipts;
- (3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:
- (i) Other source milk in a form other than that of a fluid milk product;
  - (ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established and receipts of fluid milk products from unidentified sources;
  - (iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;
  - (iv) Receipts of reconstituted skim milk in filled milk from unregulated supply plants; and
  - (v) Receipts of reconstituted skim milk in filled milk from other order plants which are regulated under an order providing for individual handler pooling to the extent that reconstituted skim milk is allocated to Class I at the transferor plant;
- (4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity:
- (i) Receipts of fluid milk products from unregulated supply plants, that were not subtracted pursuant to subparagraph (3)(iv) of this paragraph, and dairy farmers who are not producers:
    - (a) For which the handler requests Class II utilization; or

- (b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool handlers, and receipts in bulk from other order plants that were not subtracted pursuant to subparagraph (3)(v) of this paragraph;
  - (ii) Receipts of fluid milk products in bulk from an other order plant, that were not subtracted pursuant to subparagraph (3)(v) of this paragraph, in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;
- (5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;
  - (6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;
  - (7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants and dairy farmers who are not producers which were not subtracted pursuant to subparagraphs (3)(iv) or (4)(i) of this paragraph;
  - (8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraphs (3)(v) or (4)(ii) of this paragraph;
  - (9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received:
    - (i) In fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1099.43(a); and



- (ii) In milk from a cooperative association which chooses to report as a handler pursuant to § 1099.10(e) pro rata from each class in the same proportion as all producer milk after the subtraction pursuant to subdivision (i) of this subparagraph; and

- (10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

- (b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section.

#### § 1099.46 DETERMINATION OF PRODUCER MILK IN EACH CLASS.

For each class, add the pounds of skim milk and the pounds of butterfat allocated to producer milk, pursuant to § 1099.45, and determine the percentage of butterfat in the producer milk allocated to each class. In the case of a cooperative association determine the total pounds of skim milk and butterfat pursuant to § 1099.13 (b) and (c).

#### Minimum Prices

#### § 1099.50 BASIC FORMULA PRICE.

The basic formula price shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the U.S. Department of Agriculture for the month. Such price shall be adjusted to 3.5 percent butterfat basis by a butterfat differential rounded to the nearest one-tenth cent computed at 0.12 times the Chicago butter price for the month. The basic formula price shall be rounded to the nearest full cent.

#### § 1099.51 CLASS PRICES.

Subject to the provisions of §§ 1099.52 and 1099.53 the class prices per hundredweight shall be as follows:

- (a) Class I milk price. The price per hundredweight of Class I milk for the month shall be the Class I price pursuant to Part 1062 of this chapter (St. Louis, Missouri) plus 25 cents; and
- (b) Class II milk price. The Class II price shall be the basic formula price computed pursuant to § 1099.50.

#### § 1099.52 BUTTERFAT DIFFERENTIALS TO HANDLERS.

If the average butterfat test of Class I milk or Class II milk, as calculated pursuant to § 1099.44, is more or less than 3.5 percent, there shall be added to, or subtracted from, as the case may be, the price for such

class of utilization, for each one-tenth of 1 percent that such average butterfat test is above or below 3.5 percent, a butterfat differential calculated for each class of utilization follows:

- (a) Class I milk. Multiply the Chicago butter price for the previous month by 0.12 and round the resulting figure to the nearest one-tenth cent.
- (b) Class II milk. Multiply the Chicago butter price for the month, by 0.115 for the months of August through March and 0.11 for the months of April through July, and round the resulting figure to the nearest one-tenth cent.

§ 1099.53 LOCATION ADJUSTMENTS TO HANDLERS.

- (a) For milk received from producers at a pool plant located more than 40 miles by shortest highway distance as measured by the market administrator, from the nearest County Courthouse in any of the counties included in the marketing area and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, and for other source milk for which a location adjustment credit is applicable, the price computed pursuant to § 1099.51(a) shall be reduced by 7.5 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 50 miles;
- (b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of 95 percent of the receipts at such plant from producers and cooperative associations pursuant to § 1099.10(e), and the volume assigned as Class I to receipts from other order plants (and unregulated supply plants) such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

Application of Provisions

§ 1099.60 PRODUCER-HANDLERS.

Sections 1099.30, 1099.40 through 1099.52, and 1099.61 through 1099.87 shall not apply to a producer-handler.

§ 1099.61 PLANTS SUBJECT TO OTHER FEDERAL ORDERS.

In the case of a handler in his capacity as operator of a plant specified in paragraphs (a), (b), and (c) of this section, the provisions of this part shall not apply except as specified in paragraphs (d) and (e):

- (a) A distributing plant qualified pursuant to § 1099.8 which meets the requirements of a fully regulated plant pursuant to the provisions of another order issued pursuant to the Act and from which a greater quantity of fluid milk products, except filled milk, is disposed of during the month from such



plant as Class I route disposition in the marketing area regulated by the other order than as Class I route disposition in the Paducah, Ky., marketing area: Provided, That such a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of such Class I route disposition is made in such other marketing area, unless the other order requires regulation of the plant without regard to its qualifying as a pool plant under this order subject to the proviso of this paragraph: And provided further, on the basis of a written application made either by the plant operator or by the cooperative association supplying milk to such operator's plant, at least 15 days prior to the date for which a determination of the Secretary is to be effective, the Secretary may determine that the Class I route dispositions in the respective marketing areas to be used for purposes of this paragraph shall exclude (for a specified period of time) Class I route disposition made under limited term contracts to governmental bases and institutions;

- (b) A distributing plant qualified pursuant to § 1099.8 which meets the requirements of a fully regulated plant pursuant to the provisions of another Federal order and from which a greater quantity of Class I milk, except filled milk, is disposed of during the month in the Paducah marketing area as Class I route disposition than as Class I route disposition in the other marketing area, and such other order which fully regulates the plant does not contain provision to exempt the plant from regulation even though such plant has greater such Class I route disposition in the marketing area of the Paducah, Ky., order;
- (c) Any supply plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless such plant qualified as a pool plant pursuant to the proviso of § 1099.8(b) during the preceding August through January period;
- (d) The operator of a plant specified in paragraph (a), (b), or (c) of this section shall, with respect to total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator;
- (e) Each handler operating a plant specified in paragraph (a) or (b) of this section, if such plant is subject to the classification and pricing provisions of another order which provides for individual handler pooling, shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month an amount computed as follows:

- (1) Determine the quantity of reconstituted skim milk in filled milk disposed of on routes in the marketing area which was allocated to Class I at such other order plant. If reconstituted skim milk in filled milk is disposed of from such plant on routes in marketing areas regulated by two or more market pool orders, the reconstituted skim milk assigned to Class I shall be prorated according to such disposition in each area; and
- (2) Compute the value of the quantity assigned in subparagraph (1) of this paragraph to Class I disposition in this area, at the Class I price under this part applicable at the location of the other order plant and subtract its value at the Class II price.

§ 1099.62 OBLIGATIONS OF HANDLER OPERATING A PARTIALLY REGULATED DISTRIBUTING PLANT.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1099.30 and 1099.31 the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

- (1) (i) The obligation that would have been computed pursuant to § 1099.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk, except that reconstituted skim milk in filled milk shall be valued at the Class II price. There shall be included in the obligation so computed a charge in the amount specified in § 1099.70(e) and a credit in the amount specified in § 1099.82(b)
- (2) with respect to receipts from an unregulated supply plant, except that



the credit for receipts of reconstituted skim milk in filled milk shall be at the Class II price, unless an obligation with respect to such plant is computed as specified below in this subparagraph; and

- (ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1099.30 and 1099.31 similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1099.8(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

- (2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

- (1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on route disposition in the marketing area;
- (2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;
- (3) Deduct the quantity of reconstituted skim in fluid milk products disposed of on routes in the marketing area;

- (4) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and
- (5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location or the Class II price, whichever is higher, and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the Class I price applicable at the location of the nonpool plant less the value of such skim milk at the Class II price.

Determination of Uniform Price to Producers

§ 1099.70 COMPUTATION OF THE NET POOL OBLIGATION OF EACH POOL HANDLER.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

- (a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1099.46, by the applicable class prices (adjusted pursuant to §§ 1099.52 and 1099.53) excluding in the case of a cooperative association acting as a handler pursuant to § 1099.10(e) milk received by it and delivered to the pool plant of another handler;
- (b) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1099.45(a)(5) and the corresponding step of § 1099.45(b);
- (c) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1099.45(a)(10) and the corresponding step of § 1099.45(b) by the applicable class prices;
- (d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price with respect to the skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1099.45(a)(3) and the corresponding step of § 1099.45(b), except that for receipts of fluid milk products assigned to Class I pursuant to § 1099.45(a)(3) (iv) and (v) and the corresponding steps of § 1099.45(b) the Class I price shall be adjusted to the location of the transferor plant; and
- (e) Add an amount equal to the value at the Class I price adjusted for location of the nearest nonpool plant(s) from which an equivalent volume of skim milk and butterfat was received from an unregulated supply plant which volume of skim milk and butterfat is subtracted from Class I pursuant to § 1099.45(a)(7) and the corresponding step of § 1099.45(b).



With respect to skim milk and butterfat which is received from dairy farmers who are not producers and which is subtracted from Class I pursuant to § 1099.45(a)(7) and the corresponding step of § 1099.45(b), add an amount equal to its value at the Class I price applicable at the pool plant.

§ 1099.71 COMPUTATION OF THE UNIFORM PRICE.

For each month, the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content, f.o.b. market, received from producers as follows:

- (a) Combine into one total the values computed pursuant to § 1099.70 for all handlers who filed the reports prescribed by § 1099.30 for the month and who made the payments pursuant to §§ 1099.80 and 1099.82 for the preceding month;
- (b) Add an amount equivalent to the sum of the net deductions (reductions less increases) for location differentials to be made from producer payments pursuant to § 1099.86;
- (c) Subtract if the weighted average butterfat content of milk received from producers is more than 3.5 percent, or add if such average butterfat content is less than 3.5 percent, an amount computed by multiplying the producer butterfat differential by the difference between 3.5 and the average butterfat content of producer milk, and multiplying the resulting figure by the total hundredweight of such milk;
- (d) Add an amount equivalent to one-half the unobligated balance in the producer-settlement fund;
- (e) Divide the resulting amount by the sum of the following for all handlers included in these computations:
  - (1) The total hundredweight of producer milk; and
  - (2) The total hundredweight for which a value is computed pursuant to § 1099.70(e);
- (f) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (g) of this section. The resulting figure shall be the "weighted average price," and, except for the months specified below, shall be the "uniform price" for milk received from producers;
- (g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price;

- (h) For each of the months of April, May, June, and July, subtract an amount equal to 50 cents per hundredweight on the total amount of producer milk in these computations, which amount is to be retained in the producer-settlement fund and disbursed according to the provision of paragraph (i) of this section;
- (i) For each of the months of October, November, December, and January add one-fourth of the total amount subtracted pursuant to paragraph (h) of this section;
- (j) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and
- (k) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

#### Payments

#### § 1099.80 TIME AND METHOD OF PAYMENT FOR PRODUCER MILK.

- (a) Except as provided in paragraph (b) of this section, each handler operating a pool plant shall make payment to each producer from whom milk is received during the month as follows:
  - (1) On or before the last day of each month to each such producer who did not discontinue shipping milk to such handler before the 25th day of the month, an amount equal to not less than the Class II price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this subparagraph;
  - (2) On or before the 17th day of the following month, an amount equal to not less than the uniform price adjusted by the butterfat and location differentials to producers multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments: (i) Less payments made such producer pursuant to subparagraph (1) of this paragraph, (ii) less marketing service deductions made pursuant to § 1099.87, (iii) plus or minus adjustments for errors made in previous payments made to such producer, and (iv) less proper deductions authorized in writing by such producer: Provided, That if by such date such handler has not received full payment pursuant to § 1099.85 from the market administrator for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator;



- (b) In the case of a cooperative association qualified pursuant to § 1099.18 which has so requested any handler in writing, such handler shall on or before the third day prior to the date on which payments are due individual producers pursuant to paragraph (a) of this section pay the cooperative association for milk received during the month from the producer members of such association an amount equal to not less than the amount due such producer members pursuant to paragraph (a) of this section: Provided, That the proper deductions referred to in paragraphs (a)(1) and (2)(iv) of this section shall be valid in the case of cooperative members only if authorized in writing by such cooperative;
- (c) Each handler shall also make payment to a cooperative association delivering milk to such handler pursuant to § 1099.10(e) for milk so delivered as follows:
- (1) On or before the 28th day of the month an amount equal to not less than the Class II price for the preceding month multiplied by the hundredweight of milk so received from such cooperative association during the first 15 days of the month, less proper deductions authorized in writing by the cooperative association;
  - (2) On or before the 14th day of the following month not less than the uniform price adjusted by the butterfat and location differentials to producers pursuant to §§ 1099.85 and 1099.86 multiplied by the hundredweight of milk so received from the cooperative association during the month, subject to the following adjustments (i) less payments made to such cooperative association pursuant to subparagraph (1) of this paragraph, (ii) less proper deductions authorized in writing by such cooperative association: Provided, That if by such date the handler has not received full payment pursuant to § 1099.83 from the market administrator for such month, he may reduce pro rata his payments on such milk as in the case of payments to producers pursuant to paragraph (a) of this section, and payments hereunder shall be completed not later than the date for making payments pursuant to this subparagraph next following the receipt of the balance due from the market administrator; and
- (d) On or before the 14th day of the following month each handler shall pay to a cooperative association, with respect to such milk as was received from the association in its capacity as a handler operating a pool plant during the month not less than the value of such milk at the applicable class prices.

§ 1099.81 PRODUCER-SETTLEMENT FUND.

The market administrator shall establish and maintain a separate fund, known as the "producer-settlement fund", which shall function as follows:

- (a) All payments made by handlers, pursuant to §§ 1099.61, 1099.62, 1099.82, and 1099.84 shall be deposited in this fund, and all payments made pursuant to §§ 1099.83 and 1099.84 shall be made out of this fund: Provided, That payments due to any handler shall be offset by payments due from such handler; and
- (b) All amounts subtracted pursuant to § 1099.71(h) shall be deposited in this fund and set aside as an obligated balance until withdrawn to effectuate § 1099.80 in accordance with the requirements of § 1099.71(i).

§ 1099.82 PAYMENTS TO THE PRODUCER-SETTLEMENT FUND.

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a) of this section exceeds the amounts specified in paragraph (b) of this section:

- (a) The sum of the net pool obligation computed pursuant to § 1099.70 for such handler;
- (b) The sum of:
  - (1) The value of producer milk received by such handler at the applicable uniform prices specified in § 1099.80 excluding in the case of a cooperative association as a pool handler pursuant to § 1099.10(e) the value of milk delivered to pool plants of other handlers; and
  - (2) The value at the weighted average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1099.70(e).

§ 1099.83 PAYMENTS OUT OF THE PRODUCER-SETTLEMENT FUND.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1099.82(b) exceeds the amount computed pursuant to § 1099.82(a). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

§ 1099.84 ADJUSTMENT OF ERRORS IN PAYMENTS.

Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall, within 15 days, make such payment to such handler.



Whenever verification by the market administrator of the payment by a handler to any producer or cooperative association for milk received by such handler discloses payment of less than is required by § 1099.80, the handler shall make up the difference of such payment not later than the next time for making payments as set forth in the provisions relating to payments which were in error.

§ 1099.85 BUTTERFAT DIFFERENTIAL TO PRODUCERS.

The uniform price to be used pursuant to § 1099.80 in making payments for producer milk shall be adjusted by adding or subtracting, as the case may be, for each one-tenth of 1 percent by which the average butterfat content of such milk is more or less than 3.5 percent, the appropriate amount as shown in the following schedule according to the average wholesale price per pound of 92-score butter in the Chicago market, as reported by the Department of Agriculture, for the month:

Butter price range (cents):	Rate (Cents)
17.499 or less - - - - -	2
17.50 to 22.499 - - - - -	2 1/2
22.50 to 27.499 - - - - -	3
27.50 to 32.499 - - - - -	3 1/2
32.50 to 37.499 - - - - -	4
37.50 to 42.499 - - - - -	4 1/2
42.50 to 47.499 - - - - -	5
47.50 to 52.499 - - - - -	5 1/2
52.50 to 57.499 - - - - -	6
57.50 to 62.499 - - - - -	6 1/2
62.50 to 67.499 - - - - -	7
67.50 to 72.499 - - - - -	7 1/2
72.50 to 77.499 - - - - -	8
77.50 to 82.499 - - - - -	8 1/2
82.50 to 87.499 - - - - -	9
87.50 to 92.499 - - - - -	9 1/2
92.50 and over - - - - -	10

§ 1099.86 LOCATION DIFFERENTIALS TO PRODUCERS AND ON NONPOOL MILK.

- (a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant, and the uniform price for producer milk diverted to a nonpool plant shall be reduced according to the location of the pool plant from which it is diverted at the rates set forth in § 1099.53;
- (c) For purposes of computations pursuant to §§ 1099.82 and 1099.83 the weighted average price shall be adjusted at the rates set forth in § 1099.53 applicable at the location of the nonpool plant from which the milk was received.

§ 1099.87 MARKETING SERVICES.

- (a) Deductions for marketing services. Except as set forth in paragraph (b) of this section, each handler in making payments to producers pursuant to § 1099.80 with respect to milk received from producers (excluding such handler's own farm production), shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe; and, on or before the 20th day after the end of the month, shall pay such deductions to the market administrator. Such moneys shall be expended by the market administrator to verify weights, samples, and tests of the milk of such producers and to provide such producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.
- (b) Cooperative associations. In the case of producers who are members of a cooperative association, which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section and which is not receiving payment for its producer members, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payments to be made to such producers pursuant to § 1099.80(b) as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 20th day after the end of each month, pay over such deductions to the association rendering such services.

§ 1099.88 EXPENSE OF ADMINISTRATION.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month five cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production) and milk received from a cooperative association as a handler pursuant to § 1099.10(e), (b) other source milk allocated to Class I pursuant to § 1099.45(a) (3) and (7) and the corresponding steps of § 1099.45(b), and (c) packaged Class I milk disposed of from a partially regulated distributing plant as route disposition in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.



# **APPENDIX**

U. S. DEPARTMENT OF AGRICULTURE

Fig. 6041 311-71(1) (Rev. 7)

CONSUMER AND MARKETING SERVICE

SCALE IN MILES<sup>1</sup>

0 100 200 300

ALBERS EQUAL-AREA PROJECTION

ing. CASES 311-71(1) (Rev.)

U. S. DEPARTMENT OF AGRICULTURE



## PART 1000 GENERAL PROVISIONS OF FEDERAL MILK MARKETING ORDERS

Sec.

- 1000.1 Scope and purpose of Part 1000.
- 1000.2 Definitions.
- 1000.3 Market administrator.
- 1000.4 Continuity and separability of provisions.
- 1000.5 Handler responsibility for records and facilities.
- 1000.6 Termination of obligations.

### § 1000.1 Scope and purpose of Part 1000.

This part sets forth certain terms, definitions, and provisions which shall be common to and part of each Federal milk marketing order except as specifically defined otherwise, or modified, or otherwise provided, in an individual order.

### § 1000.2 Definitions.

The following terms shall have the following meanings as used in the order:

- (a) Act. "Act" means Public Act No. 10, 73d Congress, as amended and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).
- (b) Order. "Order" means the applicable part of Title 7 of the Code of Federal Regulations issued pursuant to section 8c of the Act as a Federal milk marketing order (as amended).
- (c) Department. "Department" means the U.S. Department of Agriculture.
- (d) Secretary. "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated to act in his stead.
- (e) Person. "Person" means any individual, partnership, corporation, association, or other business unit.

### § 1000.3 Market administrator.

- (a) Designation. The agency for the administration of the order shall be a market administrator selected by the Secretary and subject to removal at the Secretary's discretion. The market administrator shall be entitled to compensation determined by the Secretary.
- (b) Powers. The market administrator shall have the following powers with respect to each order under his administration:
  - (1) Administer the order in accordance with its terms and provisions;
  - (2) Make rules and regulations to effectuate the terms and provisions of the order;
  - (3) Receive, investigate, and report complaints of violations to the Secretary; and
  - (4) Recommend amendments to the Secretary.
- (c) Duties. The market administrator shall perform all the duties necessary to administer the terms and provisions of each order under his administration, including, but not limited to, the following:

- (1) Execute and deliver to the Secretary a bond covering himself and a bond covering any person designated by the Secretary to act in his stead. The respective bond shall be:
  - (i) Delivered within 45 days after he (or the acting market administrator) enters upon his duties;
  - (ii) Effective as of the date he (or the acting market administrator) enters upon his duties;
  - (iii) Conditioned upon the faithful performance of the market administrator's duties; and
  - (iv) In an amount and with surety thereon satisfactory to the Secretary;
- (2) Employ and fix the compensation of persons necessary to enable him to exercise his powers and perform his duties;
- (3) Pay out of funds provided by the administrative assessment, except expenses associated with functions for which the order provides a separate charge, all expenses necessarily incurred in the maintenance and functioning of his office and in the performance of his duties, including his own bond and compensation and the necessary bonds of his employees;
- (4) Keep records which will clearly reflect the transactions provided for in the order, and upon request by the Secretary, surrender the records to his successor or such other person as the Secretary may designate;
- (5) Furnish information and reports requested by the Secretary and submit his records to examination by the Secretary;
- (6) Announce publicly at his discretion, unless otherwise directed by the Secretary, by such means as he deems appropriate, the name of any handler who, after the date upon which he is required to perform such act, has not:
  - (i) Made reports required by the order;
  - (ii) Made payments required by the order; or
  - (iii) Made available records and facilities as required pursuant to § 1000.5;
- (7) Prescribe reports required of each handler under the order. Verify such reports and the payments required by the order by examining records (including such papers as copies of income tax reports, fiscal and product accounts, correspondence, contracts, documents or memoranda of the handler, and the records of any other persons that are relevant to the handler's obligation under the order), by examining such handler's milk handling facilities; and by such other investigation as the market administrator deems necessary for the purpose of ascertaining the correctness of any report or any obligation under the order. Reclassify skim milk and butterfat received by any handler if such examination and investigation discloses that the original classification was incorrect.
- (8) Furnish each regulated handler a written statement of such handler's accounts with the market administrator promptly each month. Furnish a corrected statement to such handler if verification discloses that the original statement was incorrect; and



(9) Prepare and disseminate publicly for the benefit of producers, handlers, and consumers such statistics and other information concerning operation of the order and facts relevant to the provisions thereof (or proposed provisions) as do not reveal confidential information.

#### § 1000.4 Continuity and separability of provisions.

(a) Effective time. The provisions of the order or any amendment to the order shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

(b) Suspension or termination. The Secretary shall suspend or terminate any or all of the provisions of the order whenever he finds that such provision(s) obstructs or does not tend to effectuate the declared policy of the Act. The order shall terminate whenever the provisions of the Act authorizing it cease to be in effect.

(c) Continuing obligations. If upon the suspension or termination of any or all of the provisions of the order, there are any obligations arising under the order, the final accrual or ascertainment of which requires acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination.

(d) Liquidation. (1) Upon the suspension or termination of any or all provisions of the order, the market administrator, or such other liquidating agent designated by the Secretary, shall if so directed by the Secretary liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition; and

(2) If a liquidating agent is so designated, all assets and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

(e) Separability of provisions. If any provision of the order or its application to any person or circumstances is held invalid, the application of such provision and of the remaining provisions of the order to other persons or circumstances shall not be affected thereby.

#### § 1000.5 Handler responsibility for records and facilities.

Each handler shall maintain and retain records of his operations and make such records and his facilities available to the market administrator. If adequate records of a handler, or of any other persons, that are relevant to the obligation of such handler are not maintained and made available, any skim milk and butterfat required to be reported by such handler for which adequate records are not available shall not be considered accounted for or established as used in a class other than the highest priced class.

(a) Records to be maintained. (1) Each handler shall maintain records of his operations (including, but not limited to, records of purchases, sales, processing, packaging, and disposition) as are necessary to verify whether such handler has any obligation under the order, and if so, the amount of such obligation. Such records shall be such as to establish for each plant or other receiving point for each month:

(i) The quantities of skim milk and butterfat contained in, or represented by, products received in any form, including inventories on hand at the beginning of the month, according to form, time, and source of each receipt;

(ii) The utilization of all skim milk and butterfat showing the respective quantities of such skim milk and butterfat in each form disposed of or on hand at the end of the month; and

(iii) Payments to producers, dairy farmers and cooperative associations, including the amount and nature of any deductions and the disbursement of money so deducted.

(2) Each handler shall keep such other specific records as the market administrator deems necessary to verify or establish such handler's obligation under the order.

(b) Availability of records and facilities. Each handler shall make available all records pertaining to such handler's operations and all facilities the market administrator finds are necessary for such market administrator to verify the information required to be reported by the order and/or to ascertain such handler's reporting, monetary, or other obligation under the order. Each handler shall permit the market administrator to weigh, sample, and test milk and milk products and observe plant operations and equipment and make available to the market administrator such facilities as are necessary to carry out his duties.

(c) Retention of records. All records required under the order to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such records pertain. If, within such 3-year period, the market administrator notifies the handler in writing that the retention of such records, or of specified records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such records, or specified records, until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

#### § 1000.6 Termination of obligations.

The provisions of this section shall apply to any obligation under the order for the payment of money:

(a) Except as provided in paragraphs (b) and (c) of this section, the obligation of any handler to pay money required to be paid under the terms of the order shall terminate 2 years after the last day of the month during which the market administrator receives the handler's report of receipts and utilization on which such obligation is based, unless within such 2-year period, the market administrator notifies the handler in writing that such money is due and payable. Service of such written notice shall be complete upon mailing to the handler's last known address and it shall contain but need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) on which such obligation is based; and

(3) If the obligation is payable to one or more producers or to a cooperative association (except an obligation to be prorated to producers under an individual handler pool), the name of such producer(s) or such cooperative association, or if the obligation is payable to the market administrator, the account for which it is to be paid;



(b) If a handler fails or refuses, with respect to any obligation under the order, to make available to the market administrator all records required by the order to be made available, the market administrator may notify the handler in writing, within the 2-year period provided for in paragraph (a) of this section, of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which all such records pertaining to such obligation are made available to the market administrator;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under the order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Unless the handler files a petition pursuant to section 8c(15)(A) of the Act and the applicable rules and regulations (7 CFR 900.50 et seq.) within the applicable 2-year period indicated below, the obligation of the market administrator:

(1) To pay a handler any money which such handler claims to be due him under the terms of the order shall terminate 2 years after the end of the month during which the skim milk and butterfat involved in the claim were received; or

(2) To refund any payment made by a handler (including a deduction or offset by the market administrator) shall terminate 2 years after the end of the month during which payment was made by the handler.







